



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET- SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

2006 FEB -6 AM 10:35

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: SDWA-08-2005-0061

IN THE MATTER OF:

BRYCE P. BOOTS

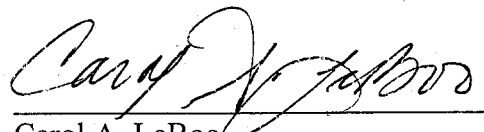
RESPONDENT

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FINAL ORDER

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondents are hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

2-6-06
DATE


Carol A. LeBoo
Acting Regional Judicial Officer

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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In the Matter of:

Bryce P. Boots

Respondent.

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) **CONSENT AGREEMENT**
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Complainant, United States Environmental Protection Agency, Region 8 (EPA), and Respondent Bryce P. Boots (Respondent), by their undersigned representatives, hereby consent and agree as follows.

BACKGROUND

1. EPA issued to Respondent a Proposed Order and Penalty Complaint with Notice of Opportunity for Hearing (Complaint) filed on September 20, 2005, alleging violations of Part C of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300h et seq., and the implementing regulations relating to underground injection control (UIC) program.
2. The Complaint alleged that Respondent, in owning, operating, and maintaining his Class V injection disposal system in noncompliance with 40 C.F.R. §144.12(a) and 40 C.F.R. §144.82(a)(1), violated the SDWA. The disposal system was located at Respondent's business, Simplicity Automotive, at 3140 Montana Highway 83, Bigfork, Montana. The alleged duration of the violations described above was from April 5, 2005 until September 20, 2005. The Complaint also alleged that Respondent violated 40 C.F.R.

§144.12(c)(1) and (2) and 40 C.F.R. §144.88(b) for failure to close or retrofit the disposal system in a manner that would keep contaminants from entering an underground source of drinking water (USDW). The alleged duration of these violations was also from April 5, 2005 until September 20, 2005.

3. It is EPA's understanding that Respondent has now permanently closed the disposal system described in paragraph 2, above.
4. To resolve this matter, the parties agree to a settlement requiring the payment by Respondent of a civil penalty in the amount of one hundred dollars (\$100.00). The penalty amount of \$100.00 is disparate from the \$4,600.00 proposed in the Complaint due to the fact that Respondent asserted and proved to EPA financial analysts an inability to pay the proposed penalty amount. EPA believes the settlement amount is reasonable, taking into consideration the statutory factors in section 1423(c)(4)(B) of the SDWA and especially the financial data submitted to EPA by Respondent.
5. Respondent admits that EPA has the jurisdictional authority to issue the Complaint and settle this case pursuant to this Consent Agreement, but does not confirm nor deny the remaining allegations, including the findings and the alleged violations.
6. This Consent Agreement applies to and is binding upon EPA and upon Respondent and his successors and assigns.

7. Respondent waives its right to contest any issue of law or fact set forth in the Complaint and knowingly agrees to waive its right to a hearing on this matter under section 1423(c)(3)(a) of the SDWA, 42 U.S.C. § 300h-2(c)(3)(a), and to appeal this matter under SDWA section 1423(c)(6), 42 U.S.C. § 300h-2(c)(6).

Civil Penalty

8. Respondent consents to the issuance of the Consent Agreement and for the purposes of settlement to the payment of the above-cited civil penalty.
9. Respondent shall, not more than thirty (30) calendar days after the date of the signed Final Order in this matter, submit a cashier's or certified check in the amount of amount of \$100.00 (one hundred dollars), payable to "Treasurer, United States of America" to:

EPA - Region 8
Regional Hearing Clerk
Post Office Box 360859
Pittsburgh, Pennsylvania 15251.

10. A copy of the check identified in paragraph 9 shall be simultaneously mailed to the following addresses:

Tina Artemis, Regional Hearing Clerk
U.S. EPA, Region 8 (8RC)
999 18th Street, Suite 300
Denver, Colorado 80202-2466, and

Jim Eppers, Senior Enforcement Attorney
U.S. EPA, Region 8 (8ENF-L)
999 18th Street, Suite 300
Denver, Colorado 80202-2466.

GENERAL PROVISIONS

11. This Consent Agreement contains all the terms of the settlement agreed to by the parties.
12. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with the SDWA and its implementing regulations.
13. Failure by Respondent to comply with any of the terms of this Consent Agreement shall constitute a breach of the agreement and may result in referral of the matter to the Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.
14. Nothing in this Consent Agreement shall be construed as a waiver by the EPA of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this Agreement.
15. Each party shall bear its own costs and attorneys fees in connection with this matter.
16. The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a Final Order.

17. This Consent Agreement, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in the Complaint.

Date: 1-12-06

By: Bryce P. Boots
Bryce P. Boots

**U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

Date: 2-3-06

By: Eddie A. Sims
for Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

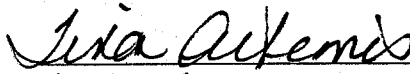
CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **BRYCE P. BOOTS, DOCKET NO.: SDWA-08-2005-0061** was filed with the Regional Hearing Clerk on February 6, 2006.

Further, the undersigned certifies that a true and correct copy of the document was delivered to James Eppers, Enforcement Attorney, U.S. EPA - Region 8, 999 18th Street - Suite 300, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt on February 6, 2006, to:

Bryce P. Boots, Owner
Simplicity Automotive
3140 MT Highway 83
Bigfork, MT 59911

February 6, 2006



Tina Artemis
Regional Hearing Clerk